

Attorney Docket 030006
U.S. Application No. 10/720,941 Examiner Tran Art Unit 2151
Response to June 12, 2007 Office Action

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REMARKS

SEP 10 2007

In response to the Office Action dated June 12, 2007, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks.

Claims 1-20 are pending in this application.

Rejection of Claims 1-5, 7-12 & 16-20 under § 103

The Office rejected claims 1-5, 7-12, and 16-20 under 35 U.S.C. § 103 (a) as being obvious over U.S. Patent Application Publication 2006/0041679 to Feig view of U.S. Patent Application Publication 2005/0094725 to Hui.

These claims, however, cannot be obvious. These claims recite, or incorporate, features that are not taught or suggested by the combined teaching of Feig and Hui. Independent claim 1, for example, recites "*recursively segmenting the first data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented*" (emphasis added). Support for such features may be found at least at paragraph [0013] of United States Application No. 10/720,949, which was incorporated by reference. Independent claim 1 is reproduced below, and independent claims 19 and 20 recite similar features.

[c01] A method of providing communications services, comprising:

receiving a first data stream at a computer, the first data stream comprising packets of data packetized according to a packet protocol;
recursively segmenting the first data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented;
dispersing the segments via a network for subsequent processing services;
receiving results of the processing services;
aggregating the results of the processing services into a second data stream; and
communicating the second data stream via the network.

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the first data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented" (emphasis added). Because both *Feig* and *Hui* are silent to these features, one of ordinary skill in the art would not think that independent claim 1 is obvious. Claims 6 and 13-15 incorporate these same features, so claims 6 and 13-15 cannot be obvious.

Moreover, the § 103 (a) rejection of these claims is deficient. If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P."). The Examiner bears the initial burden of factually supporting any *prima facia* case of obviousness. *See id.* at § 2142 (emphasis added). "If the Examiner does not produce a *prima facia* case, the applicant is under no obligation to submit evidence of nonobviousness." *Id.* (emphasis added). Only when the Examiner makes a *prima facia* case does the burden shift to the applicant to present evidence of nonobviousness. *See id.* (emphasis added).

Here, then, the Office has failed to satisfy their burden. The Office rejects claims 6 and 13-15 without citing factual evidence. The Office admits that *Feig* does not "explicitly show" the features recited in claims 6 and 13-15. The Office then baldly asserts that claims 6 and 13-15, however, would have been obvious in view of *Feig*. Bald assertions, however, do not satisfy the burden. As the Office has failed to cite any evidence to support their assertion of obviousness, the Assignee is under no obligation to submit rebuttal evidence. Because both *Feig* and *Hui* are silent to the features of claims 6 and 13-15, one of ordinary skill in the art would not think that these claims are obvious. The Office is respectfully requested to remove the § 103 (a) rejection of these claims.

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If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or scott@scottzimmerman.com.

Respectfully submitted,



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Feig and *Hui* cannot obviate all these features. *Feig* strips individual frames from a multimedia file and then packetizes the frames. *See* U.S. Patent Application Publication 2006/0041679 to *Feig* at paragraph [0040]. As *Feig* explains, a "multimedia file having groups of data is stored in an application server." *Id.* at paragraph [0040]. "Each group ... corresponds to a single video frame." *Id.* The "application server buffers the stripped groups [e.g., frames] in a staging buffer." *See id.* at paragraph [0042]. The "application server transfers ... the consecutive groups [e.g., frames] ... to a streaming server." *Id.* "[T]he streaming server converts the consecutive groups [e.g., frames] into a standard streaming format," such as the TCP protocol. *Id.* "[T]he streaming server sends the converted groups [e.g., frames] to the client apparatus." *Id.* *See also* paragraphs [0050], [0055], and [0058]. *Hui* discloses a video encoder that encodes video information into segments. *See* U.S. Patent Application Publication 2005/0094725 to *Hui* at paragraph [0028]. Still, though, the combined teaching of *Feig* and *Hui* cannot obviate the pending claims. Both *Feig* and *Hui* fail to teach or suggest "recursively segmenting the first data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented" (emphasis added). Because *Feig* and *Hui* are silent to at least these features, one of ordinary skill in the art would not think that independent claims 1, 19, and 20 are obvious.

Feig and *Hui*, then, cannot obviate claims 1-5, 7-12, and 16-20. Independent claims 1, 19, and 20 recite features that are not taught or suggested by the proposed combination of *Feig* and *Hui*. The respective dependent claims incorporate these same features and recite additional features. Claims 1-5, 7-12, and 16-20, then, cannot be obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

Rejection of Claims 6 & 13-15 under § 103

The Office also rejected claims 6 and 13-15 under 35 U.S.C. § 103 (a) as being obvious over *Feig* view of *Hui*. These claims, however, cannot be obvious over *Feig* and *Hui*. These claims incorporate features that are not disclosed or suggested by either *Feig* or *Hui*. As the above paragraphs explained, both *Feig* and *Hui* fail to teach or suggest "recursively segmenting